

Message Text

LIMITED OFFICIAL USE POSS DUPE

PAGE 01 EC BRU 03938 201908Z

43

ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 EURE-00 AID-05 CEA-01 CIAE-00

COME-00 EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02

TRSE-00 LAB-04 SIL-01 SAM-01 OMB-01 AGR-05 SS-15

NSC-05 BIB-01 /085 W

----- 018877

P 201816Z APR 76

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC PRIORITY 1013

INFO US DEL MTN GENEVA PRIORITY 6892

USMISSION OECD PARIS PRIORITY

LIMITED OFFICIAL USE EC BRUSSELS 03938

E.O. 11652: N/A

TAGS: ETRD, MTN, EEC

SUBJECT: US-EC BILATERAL ON GOVERNMENT PURCHASING (APRIL 26, 1976)

REFS: A) STATE 91670, B) EC BRUSSELS 3049, C) EC BRUSSELS 1014,
D) 1975 EC BRUSSELS 11506, E) STATE 91673

1. BEGIN SUMMARY: IN RESPONSE TO REFTEL A WE ARE MAKING
A FEW OBSERVATIONS REGARDING THE EC'S POSITION ON COVERAGE,
THRESHOLD AND TREATMENT OF LDCS FOR THE OECD DRAFT CODE
ON GOVERNMENT PURCHASING. END SUMMARY.

2. THE MISSION HAS READ WITH INTEREST THE POSITION PAPER
FOR THE US-EC BILATERAL ON THE DRAFT OECD GOVERNMENT
PURCHASING CODE (REFTEL A) AND THE RELATED CABLES ON
SPECIFIC ISSUES. OUR UNDERSTANDING OF THE EC'S POSITION
ON THE COVERAGE OF THE CODE DIFFERS SOMEWHAT FROM THAT
REPORTED IN REFTELS A AND E. WE HAVE BEEN TOLD
BY COMMISSION OFFICIALS THAT THE MEMBER STATES HAVE
CONDITIONALLY AGREED TO INCLUDE DATA PROCESSING EQUIPMENT
(COMPUTERS), IN THE EC DRAFT DIRECTIVE ON GOVERNMENT

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 EC BRU 03938 201908Z

PROCUREMENT ALTHOUGH THE DIRECTIVE WOULD NOT APPLY
TO DATA PROCESSING EQUIPMENT UNTIL JAN. 1, 1980.

THE EC WOULD PRESUMABLY BE PREPARED TO HAVE IT INCLUDED IN THE OECD CODE AT THAT TIME. (SEE REFTEL B.) THE SITUATION ON TELECOMMUNICATIONS, HOWEVER, IS LESS DEFINITE. THE COMMISSION AND MEMBER STATES AGREE THAT IF NATIONAL COMMUNICATIONS AUTHORITIES (PTTS) WERE COVERED BY THE EC DRAFT DIRECTIVE, DIFFERENT TYPES OF TELECOMMUNICATIONS EQUIPMENT WOULD ONLY BE COVERED AS EUROPEAN-WIDE TECHNICAL STANDARDS BECAME EFFECTIVE. THE COMMISSION HAS SUGGESTED THAT TELECOMMUNICATIONS OTHER THAN SWITCHING AND TRANSMISSION EQUIPMENT BE INCLUDED NOT LATER THAN FOUR YEARS AFTER THE ADOPTION OF THE DRAFT DIRECTIVE AND HAS PROPOSED PRESENTING A TIME-TABLE FOR SWITCHING AND TRANSMISSION EQUIPMENT BY JAN. 1, 1979. SEVERAL MEMBER STATES, PRIMARILY THE UK AND ITALY, CONTINUE TO ARGUE THAT THEIR TELECOMMUNICATIONS SYSTEMS ARE NOT UNDER DIRECT GOVERNMENT CONTROL AND THAT THE DRAFT DIRECTIVE COULD NOT THEREFORE APPLY TO THEM. CONVERSATIONS WITH COMMISSION OFFICIALS SUGGEST THAT THEY ARE NOW PREPARED TO ACCEPT A DRAFT DIRECTIVE WITHOUT TELECOMMUNICATIONS INCLUDED AND, AT A LATER DATE, TRY TO OPEN UP THIS SECTOR THROUGH ART. 90(2) OF THE TREATY, WHICH COVERS UNDERTAKINGS INVOLVED IN PUBLIC SERVICES (SEE REFTEL B). STILL ON THE QUESTION OF COVERAGE, IT SHOULD BE NOTED THAT THE EC DRAFT DIRECTIVE ALSO EXCLUDES WATER SUPPLY ENTITIES AS WELL AS ENERGY SUPPLY ENTITIES.

3. COMMENT: IN REFTEL C WE REPORTED THAT AN EC COMMISSION OFFICIAL SUGGESTED THAT SIGNATORY GOVERNMENTS COULD AGREE TO PROVIDE BEST EFFORTS REGARDING THOSE ENTITIES NOT COVERED BY THE CODE. THERE MIGHT ALSO BE LANGUAGE INCLUDED IN THE CODE ON NON-DISCRIMINATION FOR SUCH ENTITIES ALTHOUGH THEY NEED NOT FOLLOW CODE PROCEDURES. WHILE THE "LOOSENESS" OF SUCH AN APPROACH IS GLARING, IT MAY BE WORTH RECALLING FOR WASHINGTON'S CONSIDERATION. END COMMENT.

LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 03 EC BRU 03938 201908Z

4. THE TREATMENT OF THE EC'S POSITION ON THRESHOLD IN THE POSITION PAPER CABLES DOES NOT INDICATE THAT THE EC PROPOSED THAT CONTRACTS BELOW A THRESHOLD OF \$100,000 TO \$200,000, (THE EC HAS NOT YET REACHED AN AGREEMENT ON THRESHOLD IN THEIR DRAFT DIRECTIVE), WOULD STILL BE SUBJECT TO THE CODE. ALTHOUGH PURCHASING ENTITIES WOULD NOT BE REQUIRED TO FOLLOW CODE PROCEDURES, THEY COULD NOT DISCRIMINATE ON CONTRACTS LESS THAN THE THRESHOLD. COMMENT: THIS IS OBVIOUSLY A WEAK SOLUTION BUT AGAIN MAY BE WORTH

RECALLING AS IT WOULD COMMIT SIGNATORY GOVERNMENTS TO
THE IMPORTANT PRINCIPLE OF NON-DISCRIMINATION ON EVEN
THE SMALLEST CONTRACT. END COMMENT.

5. REGARDING TREATMENT OF LDCS (STATE 93115), AN
EC OFFICIAL TOLD US THAT IN ADDITION TO THE POSSIBILITIES
OF A) KEEPING LDCS OUT OF THE AGREEMENT AND GIVING
THEM SPECIAL ADVANTAGES OR B) BRINGING THEM IN AND
GIVING THEM A WIDE DEROGATION, THERE WAS THE INTERMEDIATE
POSITION C) OF MAKING THEM ASSOCIATE MEMBERS WITH
SOME ADVANTAGES AND NOT ALL OF THE CODE OBLIGATIONS.
THE OFFICIAL DID NOT LIKE BRINGING THE LDCS IN AS
FULL SIGNATORIES BUT SAID THE EC MIGHT BE OPEN TO
THE TWO OTHER ALTERNATIVES. HINTON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, GOVERNMENT PROCUREMENT, AGREEMENT DRAFT, STANDARDS
Control Number: n/a
Copy: SINGLE
Draft Date: 20 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976ECBRU03938
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760149-0679
From: EC BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760445/aaaablkp.tel
Line Count: 129
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 91670, 76 EC BRUSSELS 3049, 76 EC BRUSSELS 1014
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 30 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30 MAR 2004 by ShawDG>; APPROVED <31 MAR 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-EC BILATERAL ON GOVERNMENT PURCHASING (APRIL 26, 1976)
TAGS: ETRD, US, EEC, MTN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006